


# UNDERSTANDING EUROPEANIZATION IN POST-COMMUNIST EUROPE

## *Conditionality and Democratic Backsliding*

An illustration of a man in a dark suit and red tie, standing in front of a dark blue background with twelve yellow stars arranged in a circle, resembling the European Union flag. The man's face is a plain, light-colored oval.

In 2004 and 2007, former Communist states in Central Eastern Europe (CEE) joined the European Union (EU) after a lengthy accession process involving the consolidation of democratic institutions. However, many of these states have since faltered in key democratic indicators, with some states experiencing executive aggrandizement, the gradual empowerment of elected leaders. This paper investigates the accession process in order to explain these trends. First, it reviews the various conditionality mechanisms the EU deployed throughout the accession process to ensure the transposition of EU rules. It then moves to a discussion of liberal democracy, and the different manifestations of democratic backsliding. This paper then employs a discursive institutionalist perspective, which focuses on norms and discourses as the key factors protecting democratic procedures and institutions. In doing so, it explains how the absence of democratic deliberation can have significant consequences for the institutionalization of liberal democratic values in newly consolidated democracies. Ultimately, this paper argues that the increasing degradation of political debate can thus be traced to this imposition, which constrained responsive and accountable party competition. Therefore, democratic backsliding in CEE states can be attributed in part to the EU's conditional accession process that precluded substantive democratic debate over domestic policies.

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While far from unique to post-Communist countries, democratic backsliding has been particularly studied in many Central-Eastern European (CEE) states who acceded to the European Union in the Eastern Enlargement waves of 2004 and 2007. Former Communist member states such as Poland, Romania, Hungary, and others have since faltered in key democratic indicators post-accession, such as the independence of the media and judiciary. Not only have they faltered, but the case of Hungary has shown that a stable democracy can undergo democratic backsliding to the point of hybridization, sharing features with authoritarian dictatorships. This has proved that hybridization is not necessarily a stage in a unidirectional process, the result of a failed or partial democratic transition, but a distinct type of regime that can emerge even from consolidated democracies<sup>1</sup>. Most notably, Victor Orbán's regime in Hungary is now considered a hybrid regime that is both constrained and legitimized by its continued membership within the EU.<sup>2,3</sup>

Autocracy contradicts the core norms and values of the European Union (EU), such as freedom, democracy, equality, and the rule of law. Therefore, the existence of an autocracy or hybrid regime threatens the credibility of the EU as a whole.<sup>4</sup> The Copenhagen criteria, established in June 1993 by the European Council, affirmed that prior to accession, candidates must have stable institutions guaranteeing democracy, respect for the rule of law, human rights, protection of minorities, and the existence of a functioning market economy. Prospective members must also enact legislation to align domestic law with a body of formal rules referred to as the *acquis communautaire*, which is the summative body of EU legislation and jurisprudence.

While the 'Europeanization' of post-Communist states was completed with their adoption of formal EU rules and subsequent accession, the current trends in democratic backsliding indicate that the conditional accession process did not adequately secure the institutionalization of

liberal democratic norms as intended. Institutions are a set of informal and formal rules, which together define practice on the ground, referred to by Elinor Ostrom as the "rules-in-use".<sup>5</sup> Institutionalization can be understood as the process by which formal and informal rules align, and define practice on the ground.<sup>6</sup> Europeanization sought to adopt formal rules through transposition, the passing of domestic legislation intended to implement EU directives.<sup>7</sup> While these rules structure governance for all EU member states, CEE candidates were subject to additional conditions that mandated the creation of democratic institutions to replace fallen Communist regimes.

Democratic backsliding in CEE states can be primarily characterized as a process of executive aggrandizement, wherein elected executives weaken checks and balances on executive power.<sup>8</sup> In this way, executive aggrandizement is a form of democratic backsliding that is legitimated through democratic institutions, such as a state's party system, making it of particular interest to Europeanization studies.

This paper will examine the central paradox of the EU's conditional accession process, where efforts to promote liberal democracy contradict the incentive structure of accession. In requiring rapid transposition of formal rules, the EU prioritized efficiency over democratic legitimacy by foreclosing substantive and ideological debate over public policy in the CEE states pre- and post-accession. The lack of substantive policy debate has caused a decline in the quality of deliberation, which in turn drives democratic backsliding through democratic institutions themselves.

### Section I: Mechanisms of Conditionality

The fundamental question of Eastern enlargement concerned the capacity of CEE candidates to apply and enforce the *acquis* beyond accession. Emerging from decades of Communist rule, democratization and Europeanization was a way for CEE states to return to Europe and modernize their econ-

omies, societies, and governments. For CEE states, entry into the EU was seen not just as a public good, but a public necessity.<sup>9</sup> For the EU, a lack of compliance from post-Communist members would undermine its internal efficiency, as well as the mutual credibility of its existing members' commitment to EU rules. Therefore, CEE states faced strict conditionality which demanded "the alignment of the 'candidate countries' legislation and institutions with the entirety of the EU law prior to accession".<sup>10</sup> Various conditions have since been criticized as ambiguous, inconsistent, and more demanding of candidates than of existing members. Despite these criticisms, conditionality achieved the desired alignment of domestic legislation with EU rules, and thirteen CEE states acceded in 2004 and 2007.

By promoting liberal democratic and effective governance, the EU sought to achieve peace, stability, and prosperity in its neighbouring Europe. The EU expects candidate countries to adopt its norms and values, and align their domestic institutions, policies, and political processes accordingly.<sup>11</sup> To achieve this, the EU developed an accession process utilizing positive conditionality and capacity-building to ensure compliance and adoption of EU policies pre-accession.<sup>12</sup> In the decade before the Eastern enlargement, scholars investigated the depth of Europeanization on CEE pre-accession, and how the accession process influenced governance throughout stages of negotiation.

The accession of CEE states was marked by three factors to differentiate it from earlier rounds of accession. The first is the speed of adoption, as the formal process sought to impose the *acquis* faster and more efficiently for new states than it had for existing members. The second factor was the openness of CEE political elites to EU institutional models and paradigms, as they were actively seeking to replace and reform institutions from the Communist era. Lastly, CEE states faced a particularly broad and deep agenda for policy and institutional reform, requiring not only stable democratic institutions and competitive market econo-

mies, but the administrative capacity to implement EU law and practice.<sup>13</sup>

The accession process of CEE states put pressure on two aspects of governance in particular: the executive-legislative relationship, and the emergence of a central accession team within the executive.<sup>14</sup> Though applicant countries could organize their accession preparations in multiple ways, most of them privileged and empowered the executive branch over the legislature and the judiciary. This task of translating European law was seen by the EU as administrative rather than political: candidate countries were not expected to debate the terms of the *acquis*, as they were non-negotiable.<sup>15</sup> Therefore, within the executive branch, it was civil servants and officials rather than elected politicians who had the longest and most consistent role in EU preparations. The accumulated knowledge and expertise of these civil servants complemented the technocratic bias of the European Union, and many of these core executive teams would leave for Brussels once ascension was complete, rather than remain within the national government to facilitate the implementation of the new legislation.

Given the high volume of legislation within the *acquis*, national governments used a technocratic approach to fast-track the procedural aspects of the accession process, which limited parliamentary involvement. The absence of substantive debate on the *acquis* can be seen to reflect at best a consensus on accession, but it also masked the lack of politicians' knowledge of or agreement with the details of the legislation. Some parliamentarians in candidate countries complained of insufficient information and inadequate access to technical expertise and specialist knowledge, which resulted in poor understanding of the implications of the legislation.<sup>16</sup> In this way the transposition of European legislation to national governments marginalized the legislatures throughout the accession process, and limited normative Europeanization to the upper echelons of government.

### The External Incentives Model

Eastern Enlargement was therefore a process of external governance wherein the European Union had unprecedented influence on institutions and policy making in acceding states. While internal dimensions of governance concern the creation and implementation of rules in political systems, the external dimension of governance in this context concerned the transfer of given European rules and their adoption by non-member states. The EU's policy of conditionality is their primary mode of rule transfer.

During the accession process, the EU employed five broad categories of mechanisms to shape institutions and policymaking through conditionality. The first is gatekeeping, the European Union's most powerful conditionality tool. By the late 1990s, the European Union had developed a rough progression of stages in the accession process. The various stages, beginning with privileged trade access and ending with entry as a full member, required the fulfillment of specific conditions in order to proceed to the following stage. While instrumental gatekeeping has been acknowledged as a powerful tool, it is imprecise and cannot target complex changes in institutional frameworks, such as "aspects of governance that tend to require sustained and consistent pressure at a deeper level within national administrations".<sup>17</sup>

While the different stages of the accession process offered intermediate and graduated benefits,

this also meant that conditionality could only be enforced at select stages.

Another category was benchmarking and monitoring mechanisms, through which the EU influenced policy and institutions by ranking the candidate's overall progress

and benchmarking in specific issue areas. These mechanisms applied a direct pressure on policymakers by establishing policy priorities with specific timelines for implementation.<sup>18</sup> The third was the provision of legislative and institutional models, which elaborated on the state structures necessary for full implementation of the *acquis*. The fourth is the provision of financial aid, as the EU insisted on the creation of new governance structures in order to receive transfers. The final category of mechanisms was the provision of policy advice and technical assistance.

Together, the EU's various policy mechanisms demonstrate that their approach towards CEE states has primarily been a logic of harmonization, rather than of development, while the latter would have arguably been more appropriate for post-Communist countries.<sup>19</sup> Despite strong democratic institutions being one of the core conditions for accession, the incentives and constraints of the accession process supported the creation of a core national executive. This marginalized other branches and levels of government and "did not necessarily contribute to the development of shared values as a basis for new governance structures".<sup>20</sup> Adopting the *acquis* was seen as an administrative exercise and was thus biased towards an executive-dominated, technocratic approach. Despite this, there are doubts on the presumed causal link between EU conditionality mechanisms and the successful rule transfer to CEE states.<sup>21</sup> Frank Schimmelfennig and Ulrich Sedelmeier (2004) identify two alternative potential models of the European Union's external governance in the CEE states.

The primary model evident in the aforementioned mechanisms is the external incentives model, which echoes a rationalist-institutionalist understanding of conditionality. The EU and acceding states are assumed to be strategic actors interested in maximizing their own power and welfare. The acceding state adopts EU rules if the rewards outweigh the political and economic costs of adoption. The cost-benefit calcu-

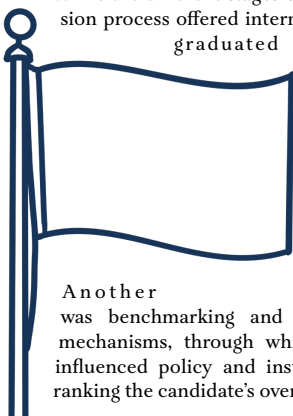
lation is determined by factors such as the determinacy of the rules, their clarity and formality, the size and speed of rewards, the credibility of the EU to withhold or rescind rewards, and the domestic adoption costs.<sup>22</sup> The second is the social learning model, which draws from social constructivism and assumes a logic of appropriateness, where states are motivated by internalized values and norms. In this model, the transfer and adoption of rules is characterized by persuasion, learning, and debates over legitimacy and behaviour. The persuasive influence of the EU resides not in the benefits of membership, but in the legitimacy of its rules and rulemaking processes, its collective identity as a European community, and the resonance of EU rules with the existing or traditional norms of the acceding state. The third model is the lesson-drawing model, wherein non-member states adopt EU rules without incentives or coercion after independently evaluating their transferability and efficiency.

Schimmelfennig and Sedelmeier (2004) test these models of rule transfer in two broad issue areas relevant to the post-Communist accession of CEE states to the EU. The first is democratic conditionality, which concerns the fundamental political principles of the EU such as the norms of human rights and liberal democracy. The second, *acquis* conditionality, concerns the specific rules of the *acquis communautaire*. While the external incentives model was the primary mechanism through which CEE states adopted EU rules in both issue areas, alternative modes of external governance became relevant in the implementation stages post-accession, or where the *acquis* offered flexibility. Rules transferred through social learning or lesson drawing were less contested domestically, and more likely to result in sustained compliance. On the other hand, rule transfer motivated by external incentives and bargaining was more likely to cause domestic resistance and poor implementation in the absence of continued monitoring and threats of sanctions post-accession, once the driving incentive of membership

was no longer available.<sup>24</sup>

The EU's external governance of the CEE states was characterized by top-down vertical command rather than horizontal and decentralized coordination. Firstly, the EU's relationship with non-member European states was highly asymmetrical, allowing it to rely on its superior bargaining power to enforce conditionality.<sup>25</sup> This constituted a negotiating advantage absent in its relationships with existing member states or external actors. Secondly, non-members and acceding states had extremely limited ability to influence the rules themselves. This restricted the scope of accession negotiations to the transition process, instead of bargaining over new rules. Thirdly, rule transfer in the EU was dominated by top-down, bureaucratic processes.<sup>26</sup> This hierarchical mode of rule transfer therefore suffered from a legitimacy problem, as acceding members had no say in the creation of the rules, and thus lacked 'ownership'. This allowed for EU law to be perceived as an unjust imposition.<sup>27</sup>

The legislative adoption of the *acquis* appeared to demonstrate the effectiveness of the external incentives model of conditionality. However, the formal transposition of EU rules was not always accompanied by effective implementation and enforcement in subsequent policymaking, leading many to question the long-term impact of conditionality post-accession. Scholars predicted that where rule adoption was achieved only through external incentives, rather than through social learning or lesson-drawing, domestic structures would become causally relevant again—such as political parties, a type of domestic veto-player. Second, they predicted that core executives will move to Brussels, rather than remain to facilitate the implementation of the new legislation. Third, once accession is achieved, new member states could be unwilling to further accept enlargement-specific rules that do not apply to existing members and could attempt to renegotiate. In this way, scholars recognized that the short-term effectiveness of conditionality compromised



the effectiveness of implementation as well as the prospect of uncontested and sustained compliance post-accession.<sup>28</sup>

#### *Challenges to Institutionalization Post-Accession*

Sedelmeier asserts that “the success of pre-accession conditionality depended primarily on the conditional incentive of membership, rather than on processes of persuasion and social learning.”<sup>29</sup> Following this rationalist approach, Antoaneta Dimitrova (2010) examines whether or not the formal adoption of EU rules has led to institutional change. In addition to the rules-harmonizing policies in the *acquis*, CEE candidates faced additional conditionality in the enlargement *acquis*, containing reforms specific to acceding states which “aimed to strengthen CEE democracies and markets by supporting administrative and judicial reform.”<sup>30</sup> These reforms required adoption not just of a specific policy, but of a general institutional framework to support the new rules. Furthermore, the institutions themselves needed a strong state framework that was often lacking in post-Communist states. Key aspects of the weak state included the competition between elites over institutions, limited policy implementation, the prevalence of informal networks, and the influence of non-state actors and elite networks on state agencies.<sup>31</sup>

In analyzing institutionalization of EU rules post-accession and post-conditionality, Dimitrova (2010) concludes that institutionalization would be determined by “another round of strategic bargaining of actors competing to shape institutions around the new formal rules.”<sup>32</sup> This could result in three potential outcomes for adopted EU rules post-accession: rules could be reversed or renegotiated, or they could be institutionalized. A third outcome would be the conceptualization of EU rules as empty shells, where actors would keep but ignore the formal rules, while operating according to parallel informal rules on the ground. The relevant actors in the post-Communist context, which assumes a weak state, are politicians, bureaucrats, and elite non-

state actors linked to the state via informal networks and practices.<sup>33</sup> Post-conditionality, these veto-players would shape the rules of the institutions, rather than be shaped by them, which would constitute a failure of institutionalization.<sup>34</sup> Indeed, after decades of shifting external regimes in Central Eastern Europe, Zsolt Enyedi (2016) asserts that “the mentalities of the communist period, and even more so, the ideological discourses of the pre-communist era, have re-emerged [to] structure relations among the actors.”<sup>35</sup> Therefore, particularly in light of executive aggrandizement, one must turn attention to the attitudes of domestic elites, rather than just their behaviour.

#### *An Alternative Approach: Discursive Institutionalism*

Thus far, the institutionalization of EU rules has been understood through rational institutionalism, which emphasizes how formal rules are instrumentally adopted. However, an alternative institutionalism theorized by Vivien Schmidt (2008) shifts focus from cost-benefit analyses to the discourses and attitudes of domestic actors as drivers of institutional change:

“Discursive institutionalism’s defining claim is that institutions are not merely incentive structures that coordinate collective action (as in rational institutionalism), historically anchored patterns of constraint (as in historical institutionalism) or embedded political-cultural formations (as in sociological institutionalism), but contexts of meaning that are constituted, reconstituted and changed by the discursive (inter-)action of social and political actors.”<sup>36</sup>

In using certain discursive abilities, these actors are theorized to follow a logic of communication to rethink, maintain, and change institutions. This contrasts with the logic of fixed preferences and interest maximization or the logic of appropriateness assumed in rationalist and sociological institutionalisms, respectively.<sup>37</sup> This theoret-

ical approach reveals that in CEE member states, the domestic social and political actors are “the ultimate agents of change and stability in liberal-democratic institutions,” and not simply the subjects of the EU’s incentive or socialization mechanisms.<sup>38</sup> Most importantly, the discursive institutionalist perspective suggests that democratic backsliding is not a result of changing incentive structures, as per the rationalist institutionalist perspective, but instead a result of shifting communicative discourse among domestic elites.<sup>39, 40</sup>

## **Section II: Democratic Backsliding and the Importance of Deliberation**

### *Understanding Democratic Backsliding*

Understanding democratic backsliding requires understanding the core tenets of democracy. Modern liberal democracy is not limited to a single set of institutions but must follow certain procedural norms and respect civic rights, which constitute the self-restrictive rule of law. Indeed, Terry L. Karl and Philippe Schmitter add self-governance to Robert Dahl’s widely accepted listing of “procedural minimal” conditions for modern liberal democracy—or “polyarchy”—to exist, which includes civil rights, regular elections, and freedom of association and expression among others.<sup>41</sup>

Anna Gora and Pieter De Wilde summarize three strands of democratic backsliding literature that focus on different elements of healthy democracies. The first perspective is based on the liberal understanding of democracy that goes beyond electoralism and focuses on the erosion of liberal values and institutions. Emphasizing the deterioration of the rule of law, this constitutes the legal-institutional perspective. Deterioration in the rule of law, such as limiting the independence of the judiciary, are key to the ‘liberal’ aspect of liberal democracy which is anchored in a shared commitment to norms such as political equality, individual liberty, civic tolerance, and the rule of law itself.<sup>42</sup> Deterioration in the rule of law often accompanies executive aggran-

dization and is the most common understanding of democratic backsliding in the EU. This is due to high-profile and egregious examples in certain post-Communist states, such as Poland’s efforts to constrain the independence of its constitutional court.<sup>43</sup> The second perspective is participatory and focuses on the popular components of democracy, such as voter turnout and declining civic participation in both national and European elections, which constitutes the most common understanding of the EU’s democratic deficit.<sup>44</sup>

The third perspective is cultural-discursive, which turns to norms and discourses as the key factors protecting democratic procedures and institutions. In taking this discursive institutionalist perspective, it becomes clear that the absence of democratic deliberation has significant consequences for the institutionalization of liberal democratic values in newly consolidated democracies.<sup>44</sup> In studying backsliding in CEE states, Gora and De Wilde (2020) operationalize democracy into five components: polyarchy, liberalism, participation, egalitarianism, and deliberation. Where the first four are characterized by institutional measures that can safeguard procedural democracy, democratic deliberation relates to elite discourses in the public sphere, rather than in institutional or procedural arrangements.<sup>45</sup> The quality of deliberation can be gauged by features such as reasoned justification, references to the common good, external consultation with an engaged society, and respect for counterarguments and competing interests.<sup>46</sup>

Gora and De Wilde’s (2020) analysis of the thirteen CEE member states reveals that democratic backsliding exists in a two-dimensional space, consisting of two separate and independent processes. The participatory component alone forms one dimension, while the other dimension consists of the four other components mentioned above. The quality of deliberation forms the core of the second dimension, as it is shown to separate the better performing democracies from the worse, while also de-

teriorating faster than any other indicators.<sup>47</sup>

Thus, the discursive institutionalist perspective is merited as the scope of EU conditionality has foreclosed substantive and ideological debate over public policy in the newly consolidated CEE democracies. The lack of high-quality democratic deliberation over policy has consequently constrained responsive and accountable party competition, and which in turn has facilitated executive aggrandizement.

#### *Populism and Technocratic Party Competition*

Political parties play a fundamental role in the consolidation of modern democracies, where a strong and stable party system is seen as both a driver and indicator of a successful democratic transition. The main functions of political parties in the modern democratic process are to channel representation and freedom of association, articulate voter preferences, and aggregate interests into comprehensive policy platforms. Political parties render ideology and modes of governance coherent to citizens and organize the work of legislatures and executives. As parties structure the electoral process, a fragmented party system and the absence of stable majorities threatens effective governance and discourages electoral participation, further weakening new democracies.<sup>48</sup> Party systems in CEE democracies can be characterized as weakly institutionalized, elitist, fragmented, and unrepresentative, while parties themselves are often ideologically amorphous, personalistic, regionalized, underfunded, and unable to create stable coalitions.<sup>49</sup> Schimmelfennig and Sedelmeier (2004) assert that for acceding CEE states, parliamentary activity and party competition regarding socio-economic issues was undercut by the necessity of transposing and implementing the *acquis* in accordance with the schedule of the accession process.<sup>50</sup> The necessity of the accession requirements encouraged parties to “develop strategies of interparty competition that allow them to appear as electorally responsive as possible while administering a set agenda of reform and compliance.”<sup>51</sup>

As such, the absence of public debate and democratic deliberation precluded an ‘organic’ development of accountable domestic politics, which has weakened the democratic process.<sup>52, 53</sup> As the scope of domestic political debate was constrained by consensus regarding accession requirements, public policy became significantly dominated by the rules of the *acquis*, which acted as valence issues. Valence issues are policy issues for which all parties converge to the same objective, and parties distinguish themselves by competence, rather than ideology or substantive policy commitments. Domestic political debate became characterized by “highly personalized debates over corruption, personal competence, and property restitution,” as well as relatively trivial disputes within parties and with other states. The roles of elites during the Communist period were also disputed and used to undermine opponents’ legitimacy. Thus, Anna Grzymalala-Busse and Abby Innes (2003) assert that political party systems in new democracies offered electoral accountability, but not substantive policy accountability.<sup>54</sup>

The subsequent consequence of conditional accession was the rise of populism that followed from technocratic political competition and growing discontent with the costs of implementing EU rules. By the early 2000s, the high costs of joining the EU were becoming clearer while the benefits were perceived to recede, especially in comparison to member states of earlier enlargements. Generally, European populism is easily embedded in Euroscepticism and appeals to domestic interests in the face of the EU’s perceived cosmopolitanism and neo-Imperialism.<sup>55</sup> Yet while CEE populists have been able to exploit discontent, they have limited ability to advance constructive debate over state policy once elected. Noting rising Euroscepticism in Hungary and Poland, Grzymalala-Busse and Innes (2003) pointed to the irony of populist rhetoric in acceding states, in that “precisely because they have done the most to accept EU demands, they have been least able to debate

the future of their state.”<sup>56</sup> Indeed, by enforcing strict conditionality and precluding the possibility for substantive policy deliberation, the EU has encouraged “both technocratic competition and its populist response.”<sup>57</sup>

Some scholars assert that the term democratic backsliding itself could be inaccurate for CEE states, whose democracies were never fully consolidated. It also over-emphasizes institutional rules and organizational structures, while not sufficiently concerned with a state’s political economy and elites.<sup>58</sup> The case of Hungary’s party system proves that while one can argue that backsliding post-Communist states were never fully consolidated, it is also clear that formal democratic institutions such as a stable party system do not indicate or institutionalize a commitment to liberal democracy. Prior to the 2010 landslide victory of *Fidesz*, Hungary was affirmed as a model of Europeanization and post-Communist democratization.<sup>59</sup> Hungary avoided the expected pitfalls of post-Communist states and established a relatively representative, stable, and institutionalized party system.

Yet the discourses of legitimacy, animosity between parties, and alienation of the opposition from government intensified party competition. For example, the three blocs in Hungary’s party system collectively agreed that electoral competition should concern the contestation of political regimes, rather than the deliberation of policy alternatives.<sup>60</sup> The combination of these discursive and institutional factors has resulted in what Enyedi (2016) describes as a ‘populist polarization’ of Hungary’s party system, wherein political polarization is not based in policy differences, but in cultural and ideological values, as well as competing appeals to “the people.” By discrediting the legitimacy of the opponent, the ruling party justifies the expulsion of the opposition from decision-making processes and justifies the entrenchment of its power through illiberal but legal means. Therefore, when the party system is dominated by appeals to populism, elections become a choice between competing political regimes. Once

*Fidesz* was elected in 2010, the discourses of legitimacy became consequential as the ruling party then engaged in executive aggrandizement, becoming the most concerning case of democratic backsliding in the EU.

Democratic backsliding is often associated with the collusion of elites and the fragmentation of the party system. However, the case of Hungary demonstrates that where political polarization and populism combine, the strength of political parties amplifies, rather than mitigates, the likelihood of democratic backsliding.<sup>61</sup> The democratic backsliding of certain CEE states confirms that the liberal democratic rules and institutions established by EU conditionality were insufficiently embedded into domestic politics. However, it also demonstrates that the formal conditions regarding various institutions, pluralistic media, minority protections, and the rule of law among others are insufficient for the consolidation of democratic rule. The roots of democratic backsliding are not in the formal institutions and democratic structures, but in the attitudes, informal norms, and discourses of elites and citizens.<sup>62</sup>

#### **Conclusions**

This paper has argued that democratic backsliding through executive aggrandizement in CEE states is a result of the EU’s conditional accession process that precluded substantive democratic debate over domestic policy and institutions. The absence and increasing degradation of policy deliberation is a result of this imposition, which constrained responsive and accountable party competition. Democratic backsliding through executive aggrandizement is the erosion of democracy not merely as an institution, but as a regime, as illiberal governing parties use democratic processes and tools to push their state towards autocracy. While rationalist institutionalist perspectives explain the adoption of formal rules as a result of conditionality, this approach alone is insufficient to explain executive aggrandizement driven by discourses of legitimacy.

The EU’s main mechanism against

the erosion of liberal democracy in member states is Article 7 of the Treaty of the European Union, which allows for sanctions and the suspension of certain member rights against states that commit a “serious and persistent breach” of the liberal democratic values enshrined in Article 2.<sup>63</sup> The capacity of material sanctions to reverse democratic backsliding is limited by substantial political obstacles, as it requires support from EU members. Further, as legal tools, the EU’s mechanisms to secure liberal democracy post-accession are also limited to the participatory and legal-institutionalist components of democracy, addressing deterioration in areas such as civic rights, fair elections, and the rule of law.<sup>64, 65</sup> Where democratic backsliding is most consequential—the realm of party competition and political debate—the EU has little capacity to intervene beyond the alternative external governance models that use social learning and lesson-drawing to institutionalize rules. Here, there is slight room for optimism, as the existence of other modes of influence mean the loss of pre-accession leverage need not be determinative: where conditional mechanisms incentivized the transfer of formal rules pre-accession, social learning and lesson-drawing could be potential channels for the institutionalization of informal rules.<sup>66, 67</sup> However, in order to prevent and remedy democratic backsliding, CEE states are first and foremost in need of domestic constituencies willing and able to challenge the erosion of democracy’s informal norms and principles.<sup>68, 69</sup> The simultaneous and elite-driven processes of Europeanization and democratization meant that the formal rules and institutions of the *acquis* were established rapidly and relatively unchallenged by an underdeveloped civil society.<sup>70</sup> Indeed, democratic deliberation and public debate are co-constituted, and require each other in order to legitimate representative decision-making. The future of liberal democracy in Central Eastern Europe is not in the hands of the European Union, but in those of citizens whose values, norms, discourses, and practices will determine the trajectory of their institutions.

## Endnotes

- 1 András Bozóki & Dániel Hegedűs, “An Externally Constrained Hybrid Regime: Hungary in the European Union,” *Democratization*, vol. 25, no. 7, (2018): 1183.
- 2 Bozóki and Hegedűs, 1183.
- 3 R. Daniel Kelemen, “Europe’s Other Democratic Deficit: National Authoritarianism in Europe’s Democratic Union,” *Government and Opposition*, vol. 52, no. 2, (2017): 212.
- 4 Ann Gora & Pieter de Wilde, “The Essence of Democratic Backsliding in the European Union: Deliberation and Rule of Law,” *Journal of European Public Policy*, (2020): 16.
- 5 Elinor Ostrom, “Institutional Rational Choice: An Assessment of the Institutional Analysis and Development Framework,” *Theories of the Policy Process*, 38.
- 6 Ostrom, “Institutional Rational Choice,” 38.
- 7 Antoaneta L. Dimitrova. “The New Member States of the EU in the Aftermath of Enlargement: Do New European Rules Remain Empty Shells?” *Journal of European Public Policy*, vol. 17, no. 1, 2010, <https://doi.org/10.1080/13501760903464929>, 141.
- 8 Nancy Bermeo, “On Democratic Backsliding,” *Journal of Democracy*, vol. 27, no. 1, (2016): 11.
- 9 Ann Grzymala-Busse & Abby Innes, “Great Expectations: The EU and Domestic Political Competition in East Central Europe,” *East European Politics and Societies*, vol. 17, no. 1, (2003): 65.
- 10 Ulrich Sedelmeier, “After Conditionality: Post-accession Compliance with EU law in East Central Europe,” *Journal of European Public Policy*, vol. 15, no. 6, (2008): 806.
- 11 Frank Schimmelfennig & Ulrich Sedelmeier, “Governance by Conditionality: EU Rule Transfer to the Candidate Countries of Central and Eastern Europe,” *Journal of European Public Policy*, vol. 11, no. 4, (2004): 661.
- 12 Schimmelfennig and Sedelmeier, 280.
- 13 Heather Grabbe, “How Does Europeanization Affect CEE Governance? Conditionality, Diffusion and Diversity,” *Journal of European Public Policy*, vol. 8, no. 6, (2001): 1015.
- 14 Grabbe, “How Does Europeanization Affect CEE Governance?,” 1029.
- 15 Grabbe, “How Does Europeanization Affect CEE Governance?,” 1017.
- 16 Grabbe, “How Does Europeanization Affect CEE Governance?,” 1017.
- 17 Grabbe, “How Does Europeanization Affect CEE Governance?,” 1021.
- 18 Grabbe, “How Does Europeanization Affect CEE Governance?,” 1022.
- 19 Grabbe, “How Does Europeanization Affect CEE Governance?,” 1025.
- 20 Grabbe, “How Does Europeanization Affect CEE Governance?,” 1029.
- 21 Schimmelfennig and Sedelmeier, “Governance by Conditionality,” 662.
- 22 Schimmelfennig and Sedelmeier, 667.
- 23 Schimmelfennig and Sedelmeier, 668.
- 24 Schimmelfennig and Sedelmeier, 674.
- 25 Schimmelfennig and Sedelmeier, “675.
- 26 Schimmelfennig and Sedelmeier, 675.
- 27 Sedelmeier, “After Conditionality,” 811.
- 28 Schimmelfennig and Sedelmeier, “Governance by Conditionality,” 676.
- 29 Sedelmeier, “After Conditionality,” 807.
- 30 Dimitrova, “The New Member States,” 139.
- 31 Antoaneta L. Dimitrova, “The Uncertain Road to Sustainable Democracy: Elite Coalitions, Citizen Protests and the Prospects of Democracy in Central and Eastern Europe,” *East European Politics* 34, no. 3 (2018): 264.
- 32 Dimitrova, “The New Member States,” 145.
- 33 Dimitrova, “The Uncertain Road,” 259.
- 34 Dimitrova, “The New Member States,” 146.
- 35 Zsolt Enyedi, “Populist Polarization and Party System Institutionalization,” *Problems of Post-Communism*, vol. 63, no. 4, (2016):

- 216.
- 36 Vivien A. Schmidt, "Discursive Institutionalism: The Explanatory Power of Ideas and Discourse," *Annual Review of Political Science*, vol. 11, no. 1, (2008) : 314.
- 37 James Dawson & Seán Hanley, "Foreground Liberalism, Background Nationalism: A Discursive-institutionalist Account of EU Leverage and 'Democratic Backsliding' in East Central Europe," *JCMS: Journal of Common Market Studies*, vol. 57, no. 4, (2019): 714.
- 38 Dawson and Hanley, "Foreground Liberalism, Background Nationalism," 716.
- 39 Dawson and Hanley, "Foreground Liberalism, Background Nationalism," 723.
- 40 Schmidt, "Discursive Institutionalism," 314.
- 41 Philippe C. Schmitter & Terry Lynn Karl, "What Democracy Is . . . And Is Not," *Journal of Democracy* 2, no. 3 (1991): 81.
- 42 Gora and de Wilde, "The Essence of Democratic Backsliding," 2.
- 43 Ulrich Sedelmeier, "Political Safeguards Against Democratic Backsliding in the EU: The Limits of Material Sanctions and the Scope of Social Pressure," *Journal of European Public Policy* 24, no. 3 (2017): 345.
- 44 Gora and de Wilde, "The Essence of Democratic Backsliding," 16.
- 45 Gora and de Wilde, 8.
- 46 Gora and de Wilde, 12.
- 47 Gora and de Wilde, 16.
- 48 Enyedi, "Populist Polarization," 211.
- 49 Enyedi, 211.
- 50 Schimmelfennig and Sedelmeier, "Governance by Conditionality," 676.
- 51 Grzymalala-Busse and Innes, "Great Expectations," 66.
- 52 Grzymalala-Busse and Innes, 66.
- 53 Schimmelfennig and Sedelmeier, "Governance by Conditionality," 676.
- 54 Grzymalala-Busse and Innes, "Great Expectations," 66-67.
- 55 Enyedi, "Populist Polarization," 215.
- 56 Grzymalala-Busse and Innes, "Great Expectations," 69.
- 57 Grzymalala-Busse and Innes, 72.
- 58 Dimitrova, "The Uncertain Road," 258.
- 59 Lise Esther Herman, "Re-evaluating the Post-Communist Success Story: Party Elite Loyalty, Citizen Mobilization and the Erosion of Hungarian Democracy," *European Political Science Review* 8, no. 2 (2016): 252.
- 60 Enyedi, "Populist Polarization," 215.
- 61 Enyedi, 218.
- 62 Enyedi, 218.
- 63 Sedelmeier, "Political Safeguards," 339.
- 64 Sedelmeier, 342.
- 65 Kelemen, "Europe's Other Democratic Deficit," 231.
- 66 Sedelmeier, "Political Safeguards," 349.
- 67 Dawson, J., & Hanley, S, "Foreground Liberalism," 723
- 68 Dimitrova, "The New Member States," 260.
- 69 Milada Anna Vachudova, "From Competition to Polarization in Central Europe: How Populists Change Party Systems and the European Union," *Polity* 51, no. 4 (2019) 705.
- 70 Dimitrova, "The New Member States," 261.